

**REMARKS**

Applicant requests the Examiner to reconsider the application as amended. Claims 1 to 23 are pending. Claims 1 and 14 have been amended, as discussed in more detail below. The Examiner has allowed claims 19 to 23, and has indicated that claims 6, 7 and 15 are objected to, but contain allowable subject matter. Applicant thanks the Examiner for confirming that these claims are allowable. Applicant respectfully traverses the rejections made as to the remaining claims.

**I. Rejection Under 35 U.S.C. § 103(a)**

Claims 1 to 5, 8, and 10 to 13 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent 4657010 (Wright) in view of U.S. Patent 4739755 (White). Applicant respectfully traverses this rejection as to claim 1 as amended, and as to all claims depending from claim 1. Applicant has amended claim 1 to make more clear that the adjustment member maintains the accordion folds in a closed position to keep the mask at the smaller size configuration along the vertical extent of the mask. Support for such amendment to claim 1 is found, *inter alia*, in paragraphs [0026], [0028] and [0034] (i.e., "maintain the accordion folds in the folded position", "The folds are held in such creased or folded position...").

Wright (US 4,657,010) shows a mask with a lower section 14 that is overlapped with and secured to the upper section 12. The lower section 14 may be removed entirely, or may be moved to engage different eyelets or snaps 42 to reduce the vertical extent of the mask. Wright has no accordion folds that extend across a width of the mask. With hindsight knowledge of Applicant's disclosure, the Examiner strains to extend Wright's teachings beyond their plain meaning and beyond what would be understood by persons of skill in the art when reading Wright. Wright's mechanism for adjusting the lengthwise size of the mask is to move or remove lower section 14. Wright does not teach or suggest that folds or accordion folds be used for this

purpose. White does not teach or suggest an adjustment member that "maintains the folds in the closed compressed position to reduce a vertical size of the mask".

White (US 4,379,755), does not fill the gaps in the disclosure of Wright. White shows a respirator mask with pleats 4 that can be variably expanded and contracted while the mask is worn. White lacks an adjustment member that "maintains the folds in the closed compressed position to reduce a vertical size of the mask". White expressly wants the pleats to open and close when the mask is worn to provide "comfort during movement of the jaw and mouth during talking" (Col. 2, ll. 41-42). Thus, White's mask is never held in a closed compressed position by an adjustment member.

The purported combination of Wright and White simply does not establish a *prima facie* case of obvious. Wright's vertical size-adjustment means is to move or remove a lower section of the mask. Wright has no accordion folds for this purpose. The "accordion folds" pointed to by the Examiner are folds at the bridge of the nose of the mask, which do not extend across the width of the mask. In contrast, while White shows accordion folds, White wants those folds to variably open and close with jaw movement. White provides no means for holding the folds in a closed position to vary the vertical extent of the mask. Applicant submits that persons of skill would not be disposed to combine Wright and White as proposed by the Examiner. Moreover, even if the combination were attempted, it would not arrive at a mask wherein an adjustment member holds accordion folds in a closed position to reduce the vertical extent of the mask. Claim 1 thus distinguishes and should be allowed, and the claims depending from claim 1 also should be allowed.

Claim 9 was rejected under 35 U.S.C. § 103(a) as being obvious over Wright in view of White, as applied to claim 1, and in further view of U.S. Patent 3441020 (Wortz). Claim 9

depends from claim 1 and is deemed patentable for at least the same reasons claim 1 is allowable.

**II. Rejection Under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)**

Claims 14 and 16 to 18 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Wright in view of White. Applicant has amended claim 14 to make clear that the adjustment member maintains the accordion folds in a desired unfolded or folded position so as to obtain a desired length along the vertical extent of the mask. Thus, claim 14 is believed to distinguish from Wright or the purported combination of Wright with White for the same reasons claim 1 distinguishes as explained above. Thus, claim 14 and all claims depending from claim 14 should be allowed.

**CONCLUSION**

Claims 1 to 23 are believed to be in condition for allowance. Accordingly, Applicant respectfully requests that the Application be allowed and passed to issue.

Applicant believes no fees are due. Nevertheless, should the Director determine that any fees are due before the Examiner may consider this paper, such as a fee for an extension of time, such extension is requested and the Director is authorized to debit our Deposit Account No. 03-2775 for the fee amount.

Date: August 22, 2005

Respectfully submitted,

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